

## E-filing

555

## COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C §§ 1983

Name Gutierrez, Richard Gilbert  
 (Last) (First) (Initial)

FILED

Prisoner Number PEN # CNS 503

JUL 31 2007

Institutional Address 150 West Hedding St  
San Jose, Calif. 95110

RICHARD W. WIEKING  
 CLERK, U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

Richard Gilbert Gutierrez  
 (Enter the full name of plaintiff in this action.)

vs.

Case No. \_\_\_\_\_  
 (To be provided by the clerk of court)

Does 1-15 Jon Doe 1-15

First Name Not

Jane Doe 1-15 c/o Borish

KIDNAP AT

this time

COMPLAINT UNDER THE  
 CIVIL RIGHTS ACT,  
 42 U.S.C §§ 1983

CAPT D. Sepulveda c/o Johnson

Edward C Flores Chief of Corrections  
 (Enter the full name of the defendant(s) in this action))

M.D. JOHN Lukeridge Dr. GOTARTY

[All questions on this complaint form must be answered in order for your action to proceed..]

I. Exhaustion of Administrative Remedies

[Note: You must exhaust your administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.]

A. Place of present confinement Santa Clara Dept of Corrections

B. Is there a grievance procedure in this institution?

YES ☒ NO ( )

C. Did you present the facts in your complaint for review through the grievance procedure?

YES ☒ NO ( )

D. If your answer is YES, list the appeal number and the date and result of the

COMPLAINT

- 1 -

1 appeal at each level of review. If you did not pursue a certain level of appeal,  
2 explain why.

3 1. Informal appeal Grievance No. 68705

4 SAT 3-17-07 300 AM

5 Refer to Level II

6 formal level

2. First

7  
8  
9 3. Second formal level ~~Your Complaint About The Staff~~

10 I do Not Remember Talking With Gutierrez However  
11 I would Have Taken The Appropriate Action IF There Was A Problem  
12 OR INJURY TO AN <sup>4</sup>mate Third

formal level Your Complaint About The Staff And

13 Medical Staff Now Be Forwarded To Them For

14 Response. The Main Jail Portion Has Been Responded To Above

15 E. Is the last level to which you appealed the highest level of appeal available to  
16 you?

17 YES (✓) NO ( )

18 F. If you did not present your claim for review through the grievance procedure,  
19 explain why. Rumbel Vs. Hill

20  
21  
22 II. Parties

23 A. Write your name and your present address. Do the same for additional plaintiffs,  
24 if any.

25 Richard Gilbert Gutierrez PEN.CNS 503

26 885 N. SAN Pedro St SAN JOSE, CALIF

27 95110-1718

28 B. Write the full name of each defendant, his or her official position, and his or her

place of employment.

Captin Supulveda c/o Mr Borish, Sergeant Simonson #1657  
 Doctor John cozmo Luke Ridge, c/o Mr. Johnson, Edward  
 Flores, c/o Mr. Romero, Nurse CONNIE, c/o Armenta Nurse Rudy  
 Nurse Ruby, Nurse Carrie, Nurse Lina Nurse Elizabeth,  
 Nurse Carol, Nurse Maryland, Nurse Jane Does 1-15 JON Does 1-15

#### Statement of Claim

State here as briefly as possible the facts of your case. Be sure to describe how each defendant is involved and to include dates, when possible. Do not give any legal arguments or cite any cases or statutes. If you have more than one claim, each claim should be set forth in a separate numbered paragraph.

ON January 27<sup>th</sup> 2007 Correctional Officer Mr. Borish,  
 c/o Mr. Johnson, c/o John Doe Herniated Disks L5-S1  
 L4 See MRI, XRAY, AND CT SCAN By Use of  
 Excessive Force Transporting Plaintiff From  
 Elmwood Correction Facility Located At 701 South  
 Abel St. Milpitas 95035 At 3:30 AM TO  
 Main Jail Santa Clara Dept Of Correction Located  
 At 150 West Hedding St. San Jose, CALIF  
 95110-1718 By Slamming The Plaintiffs  
 SPINE INTO THE Sheriff's VAN STEPS AND  
 Floor Board. Defendants Violated The Plaintiffs  
 Eighth Amendment And 14th Amendment

Provisions of Inadequate Medical CARE, CRUEL AND UNUSUAL  
 IV. Relief PUNISHMENT, USE OF EXCESSIVE FORCE

Your complaint cannot go forward unless you request specific relief. State briefly exactly what you want the court to do for you. Make no legal arguments; cite no cases or statutes.

ALL Defendants Violated The Plaintiffs 8th  
 And Fourteenth Amendment Rights Secured under  
 COMPLAINT the U.S.C. By Inadvertently Failed to  
 Provide Adequate medical care to R. Gutierrez AND Infliction  
 of Unnecessary Suffering ON R. Gutierrez By Failure to  
 Treat His medical Needs is consistent with contemporary

1 And Deliberate Indifference To R. Gutierrez's Serious  
2 Injury Constitutes Cruel And Unusal Punishment And  
3 The Plaintiff Asks \$300,000 for Per Defendant For  
4 Punitive Damages And \$300,000 Per Defendant For Compensatory Damages  
5

6  
7 I declare under penalty of perjury that the foregoing is true and correct.  
8

9 Signed this 25 day of July, 2007  
10

11 Richard A. Aulersey  
12 (Plaintiff's signature)  
13  
14  
15  
16  
17  
18  
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22  
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27  
28

Main Jail  
Main Jail South [ ]  
North County Jail [ ]

SANTA CLARA COUNTY DEPARTMENT OF CORRECTION  
INMATE GRIEVANCE FORM

68705  
pg1

WRC

INMATE'S NAME: <u>Richard Gutierrez</u>	BOOKING NUMBER: <u>06055716</u>	HOUSING UNIT: <u>104</u>
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DETAILS OF GRIEVANCE. PRINT! BE SPECIFIC!: This is a Grievance if it is lost or misplaced then I shall consider The lost or misplacement as an Exhaustion of Administrative Remedies in Their Totality, Also I request this grievance be issued A log number for Tracking purposes. On Jan. 26, 2007 I was in pain Due to

WHAT SOLUTION ARE YOU RECOMMENDING?: See pg2 continued

Your Signature: Richard Gutierrez Date: 3/17/07 Time: 4 AM/PM  
(Do NOT write below this line! Use additional sheets if necessary)

Received from Inmate on:  
Day: SAT Date: 3/17/07 Time: 0300 Officer: RICE #1755 Team: D

RESPONDING OFFICER'S STATEMENT (Please print):

[ ] Resolved [X] Refer to Level II

Officer's Name: Team: Date: / /

SUPERVISOR'S ACTION: I DO NOT REMEMBER TALKING WITH GUTIERREZ.

HOWEVER, I WOULD HAVE TAKEN THE APPROPRIATE ACTION IF THERE WAS ANY A PROBLEM OR INJURY TO AN INMATE.

[X] Resolved [ ] Refer to Level III

Supervisor's Name: Simonson #1657 Team: B Date: 03/22/2007

SHIFT LIEUTENANT REVIEW: [X] Concur [ ] Reversed YOUR COMPLAINT ABOUT

THE ERMWOOD STAFF AND MEDICAL STAFF WILL BE FORWARDED TO THEM FOR A RESPONSE. THE MAIN JAIL'S SECTION HAS BEEN REPORTED TO ABOVE

SIGNATURE: Lt. M. Conner #209 Date: 3/22/07 Time: 1307

SUPPORT SERVICE RESPONSE: Unit Assigned: Date Assigned: / /  
Date Due: 03/24/07

Response by: Title: Date: / / Time:

FACILITY COMMANDER/DESIGNEE REVIEW: [ ] Concur [ ] Reversed

SIGNATURE: Lt. M. Conner #209 Date: 3/22/07 Time: 1307

RESPONSE RETURNED TO INMATE: Date: / / Time: By:  
Distribution: White-Administration Canary-Inmate (Final Disposition) Pink-Inmate (Initial Receipt)

Main Jail [ ]  
Main Jail South [ ]  
North County Jail [ ]

SANTA CLARA COUNTY DEPARTMENT OF CORRECTION  
INMATE GRIEVANCE FORM

Elmwood [ ]  
CCW [ ]  
WRC [ ]

P91

INMATE'S NAME: <u>Richard Gutierrez</u>	BOOKING NUMBER: <u>0605376</u>	HOUSING UNIT: <u>604</u>
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DETAILS OF GRIEVANCE. PRINT! BE SPECIFIC!: This is a Grievance if it is lost or misplaced then I shall consider The lost or misplacement as an Exhaustion of Administrative Remedies in Their Totality, Also I request this grievance be issued a log number for Tracking purposes. On Jan 26, 2007 I was in pain Due to

WHAT SOLUTION ARE YOU RECOMMENDING?: See pg2 continued

Your Signature: Richard Gutierrez Date: 3/17/07 Time: 4 AM/PM  
(Do NOT write below this line Use additional sheets if necessary)

Received from Inmate on:  
Day: AT Date: 3/17/07 Time: 0300 Officer: Rick P. R. T. Team: 1

RESPONDING OFFICER'S STATEMENT (Please print):

[ ] Resolved [ ] Refer to Level II

Officer's Name: \_\_\_\_\_ Team: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

SUPERVISOR'S ACTION:

[ ] Resolved [ ] Refer to Level III

Supervisor's Name: \_\_\_\_\_ Team: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

SHIFT LIEUTENANT REVIEW: [ ] Concur [ ] Reversed

SIGNATURE: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_

SUPPORT SERVICE RESPONSE: Unit Assigned: \_\_\_\_\_ Date Assigned: \_\_\_\_/\_\_\_\_/\_\_\_\_  
Date Due: \_\_\_\_/\_\_\_\_/\_\_\_\_

Response by: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_

FACILITY COMMANDER/DESIGNEE REVIEW: [ ] Concur [ ] Reversed

SIGNATURE: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_

RESPONSE RETURNED TO INMATE: Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_ By: \_\_\_\_\_  
Distribution: White-Administration Canary-Inmate (Final Disposition) Pink-Inmate (Initial Receipt)

Main Jail [ ]  
Main Jail South [ ]  
North County Jail [ ]

SANTA CLARA COUNTY DEPARTMENT OF CORRECTION  
INMATE GRIEVANCE FORM

Elmwood [ ]  
CCW [ ]  
WRC [ ]

INMATE'S NAME: <u>Richard Gutierrez</u>	BOOKING NUMBER: <u>0605877</u>	HOUSING UNIT: <u>604</u>
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DETAILS OF GRIEVANCE. PRINT! BE SPECIFIC!: recent back Surgery. I have  
Screws inserted in my spine. I told the nurse to help me  
and the nurse would not. While being Transported from  
Elmwood To Main Jail Three c/o Borish, Johnson and another  
c/o John Doe. Took me off the gurney and dropped  
me on the floor. Then they dragged me about 100 to 150 feet

WHAT SOLUTION ARE YOU RECOMMENDING?: See pg 3 continued

Your Signature: Richard Gutierrez Date: 3/17/07 Time: 4 AM/PM  
(Do NOT write below this line. Use additional sheets if necessary)

Received from Inmate on:  
Day: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_ Officer: \_\_\_\_\_ Team: \_\_\_\_\_

RESPONDING OFFICER'S STATEMENT (Please print): \_\_\_\_\_

[ ] Resolved [ ] Refer to Level II

Officer's Name: \_\_\_\_\_ Team: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
SUPERVISOR'S ACTION: \_\_\_\_\_

[ ] Resolved [ ] Refer to Level III

Supervisor's Name: \_\_\_\_\_ Team: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
SHIFT LIEUTENANT REVIEW: [ ] Concur [ ] Reversed \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_  
SUPPORT SERVICE RESPONSE: Unit Assigned: \_\_\_\_\_ Date Assigned: \_\_\_\_/\_\_\_\_/\_\_\_\_  
Date Due: \_\_\_\_/\_\_\_\_/\_\_\_\_

Response by: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_  
FACILITY COMMANDER/DESIGNEE REVIEW: [ ] Concur [ ] Reversed \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_  
RESPONSE RETURNED TO INMATE: Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_ By: \_\_\_\_\_  
Distribution: White-Administration Canary-Inmate (Final Disposition) Pink-Inmate (Initial Receipt)



Main Jail ☒   
 Main Jail South ☐   
 North County Jail ☐

SANTA CLARA COUNTY DEPARTMENT OF CORRECTION  
**INMATE GRIEVANCE FORM**

Elmwood ☐   
 CCW ☐   
 WRC ☐

pg 3

INMATE'S NAME: <u>Richard Gutierrez</u>	BOOKING NUMBER: <u>06058776</u>	HOUSING UNIT: <u>6A</u>
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DETAILS OF GRIEVANCE. PRINT! BE SPECIFIC!: to a van outside. Then they Slamed my back against The vans steps while nurses Watched. Nurse David <ASIAN> watched the Correctional Officers conduct. Then those c/o's pushed me in the van They Slamed me head first and twisted my legs. I was in tremendous pain and The officers

WHAT SOLUTION ARE YOU RECOMMENDING?: See page 4 Continued

Your Signature: Richard Gutierrez Date: 3/17/07 Time: 4 ☒ AM ☐ PM  
 (Do NOT write below this line. Use additional sheets if necessary)

Received from Inmate on:  
 Day: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_ Officer: \_\_\_\_\_ Team: \_\_\_\_\_

RESPONDING OFFICER'S STATEMENT (Please print): \_\_\_\_\_

☐ Resolved ☐ Refer to Level II

Officer's Name: \_\_\_\_\_ Team: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
 SUPERVISOR'S ACTION: \_\_\_\_\_

☐ Resolved ☐ Refer to Level III

Supervisor's Name: \_\_\_\_\_ Team: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
 SHIFT LIEUTENANT REVIEW: ☐ Concur ☐ Reversed

SIGNATURE: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_  
 SUPPORT SERVICE RESPONSE: Unit Assigned: \_\_\_\_\_ Date Assigned: \_\_\_\_/\_\_\_\_/\_\_\_\_  
 Date Due: \_\_\_\_/\_\_\_\_/\_\_\_\_

Response by: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_  
 FACILITY COMMANDER/DESIGNEE REVIEW: ☐ Concur ☐ Reversed

SIGNATURE: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_  
 RESPONSE RETURNED TO INMATE: Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_ By: \_\_\_\_\_  
 Distribution: White-Administration Canary-Inmate (Final Disposition) Pink-Inmate (Initial Receipt)



Main Jail [X]  
Main Jail South [ ]  
North County Jail [ ]

SANTA CLARA COUNTY DEPARTMENT OF CORRECTION  
**INMATE GRIEVANCE FORM**

Elmwood [ ]  
CCW [ ]  
WRC [ ]

994

INMATE'S NAME: <u>Richard Gutierrez</u>	BOOKING NUMBER: <u>0605877</u>	HOUSING UNIT: <u>60 A</u>
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DETAILS OF GRIEVANCE. PRINT! BE SPECIFIC!: Should have used a  
Wheel Chair Next I get dropped again upon  
Arrival By C/o Jane Doe Then advised  
Sgt Sargents SIMMONS On Sat Jan. 27, 2007 At  
700 A.M. When the Sargents Simmons and  
Sargent John Doe came to the INFIRMARY. The

WHAT SOLUTION ARE YOU RECOMMENDING?: See pg 5 Continued

Your Signature: Richard Gutierrez Date: 3/17/07 Time: 4 AM/PM  
(Do NOT write below this line. Use additional sheets if necessary)

Received from Inmate on:  
Day: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_ Officer: \_\_\_\_\_ Team: \_\_\_\_\_

RESPONDING OFFICER'S STATEMENT (Please print): \_\_\_\_\_

[ ] Resolved [ ] Refer to Level II

Officer's Name: \_\_\_\_\_ Team: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
\*\*\*\*\*  
SUPERVISOR'S ACTION: \_\_\_\_\_

[ ] Resolved [ ] Refer to Level III

Supervisor's Name: \_\_\_\_\_ Team: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
\*\*\*\*\*  
SHIFT LIEUTENANT REVIEW: [ ] Concur [ ] Reversed \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_  
\*\*\*\*\*  
SUPPORT SERVICE RESPONSE: Unit Assigned: \_\_\_\_\_ Date Assigned: \_\_\_\_/\_\_\_\_/\_\_\_\_  
Date Due: \_\_\_\_/\_\_\_\_/\_\_\_\_

Response by: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_  
\*\*\*\*\*  
FACILITY COMMANDER/DESIGNEE REVIEW: [ ] Concur [ ] Reversed \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_  
\*\*\*\*\*  
RESPONSE RETURNED TO INMATE: Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_ By: \_\_\_\_\_  
Distribution: White-Administration    Canary-Inmate (Final Disposition)    Pink-Inmate (Initial Receipt)

Main Jail [~]  
Main Jail South [ ]  
North County Jail [ ]

SANTA CLARA COUNTY DEPARTMENT OF CORRECTION  
**INMATE GRIEVANCE FORM**

Elmwood [ ]  
CCW [ ]  
WRC [ ]

P95

INMATE'S NAME: <u>Richard Gutierrez</u>	BOOKING NUMBER: <u>0605877</u>	HOUSING UNIT: <u>6-A</u>
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DETAILS OF GRIEVANCE. PRINT! BE SPECIFIC! Excessive use of force  
Compounded the pain. I believe the C/Os Acted out  
of Conformatory of their duties by Applying  
unnecessary force and with an Attitude of  
deliberate indifference for my Safty. I request  
that this Grievance Complaint be investigated

WHAT SOLUTION ARE YOU RECOMMENDING?: See Pg 6 Continued

Your Signature: Richard Gutierrez Date: 3/17/07 Time: 4 AM/PM  
(Do NOT write below this line. Use additional sheets if necessary)

Received from Inmate on:  
Day: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_ Officer: \_\_\_\_\_ Team: \_\_\_\_\_

RESPONDING OFFICER'S STATEMENT (Please print): \_\_\_\_\_

[ ] Resolved [ ] Refer to Level II

Officer's Name: \_\_\_\_\_ Team: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
\*\*\*\*\*  
SUPERVISOR'S ACTION: \_\_\_\_\_

[ ] Resolved [ ] Refer to Level III

Supervisor's Name: \_\_\_\_\_ Team: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
\*\*\*\*\*  
SHIFT LIEUTENANT REVIEW: [ ] Concur [ ] Reversed \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_  
\*\*\*\*\*  
SUPPORT SERVICE RESPONSE: Unit Assigned: \_\_\_\_\_ Date Assigned: \_\_\_\_/\_\_\_\_/\_\_\_\_  
Date Due: \_\_\_\_/\_\_\_\_/\_\_\_\_

Response by: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_  
\*\*\*\*\*  
FACILITY COMMANDER/DESIGNEE REVIEW: [ ] Concur [ ] Reversed \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_  
\*\*\*\*\*  
RESPONSE RETURNED TO INMATE: Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_ By: \_\_\_\_\_  
Distribution: White-Administration    Canary-Inmate (Final Disposition)    Pink-Inmate (Initial Receipt)

Main Jail [ ]  
Main Jail South [ ]  
North County Jail [ ]

SANTA CLARA COUNTY DEPARTMENT OF CORRECTION  
**INMATE GRIEVANCE FORM**

Elmwood [ ]  
CCW [ ]  
WRC [ ]

pg 6

INMATE'S NAME: <u>Richard Gutierrez</u>	BOOKING NUMBER: <u>06058776</u>	HOUSING UNIT: <u>6A</u>
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DETAILS OF GRIEVANCE. PRINT! BE SPECIFIC!: by D.O. C. Administrative  
Personel and resolved to the Highest level of  
Exhaustion Thank you

See pg 7 Continued

WHAT SOLUTION ARE YOU RECOMMENDING?: That the 3rd and 4th c/o To the

Your Signature: Richard Gutierrez Date: 3/17/07 Time: 4 AM/PM  
(Do NOT write below this line. Use additional sheets if necessary)

Received from Inmate on:

Day: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_ Officer: \_\_\_\_\_ Team: \_\_\_\_\_

RESPONDING OFFICER'S STATEMENT (Please print): \_\_\_\_\_

[ ] Resolved [ ] Refer to Level II

Officer's Name: \_\_\_\_\_ Team: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

SUPERVISOR'S ACTION: \_\_\_\_\_

[ ] Resolved [ ] Refer to Level III

Supervisor's Name: \_\_\_\_\_ Team: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

SHIFT LIEUTENANT REVIEW: [ ] Concur [ ] Reversed \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_

SUPPORT SERVICE RESPONSE: Unit Assigned: \_\_\_\_\_ Date Assigned: \_\_\_\_/\_\_\_\_/\_\_\_\_  
Date Due: \_\_\_\_/\_\_\_\_/\_\_\_\_

Response by: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_

FACILITY COMMANDER/DESIGNEE REVIEW: [ ] Concur [ ] Reversed \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_

RESPONSE RETURNED TO INMATE: Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_ By: \_\_\_\_\_  
Distribution: White-Administration Canary-Inmate (Final Disposition) Pink-Inmate (Initial Receipt)

Main Jail [ ]  
Main Jail South [ ]  
North County Jail [ ]

SANTA CLARA COUNTY DEPARTMENT OF CORRECTION  
**INMATE GRIEVANCE FORM**

Elmwood [ ]  
CCW [ ]  
WRC [ ]

PS7

INMATE'S NAME: <u>Richard Gutierrez</u>	BOOKING NUMBER: <u>06058776</u>	HOUSING UNIT: <u>6A</u>
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DETAILS OF GRIEVANCE. PRINT! BE SPECIFIC!:

See pg 8 Continue

WHAT SOLUTION ARE YOU RECOMMENDING?: Complaint names be forwarded

Your Signature: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_ AM/PM  
(Do NOT write below this line. Use additional sheets if necessary)

Received from Inmate on: \_\_\_\_\_  
Day: \_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_ Officer: \_\_\_\_\_ Team: \_\_\_\_\_

RESPONDING OFFICER'S STATEMENT (Please print):

[ ] Resolved [ ] Refer to Level II

Officer's Name: \_\_\_\_\_ Team: \_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
\*\*\*\*\*  
SUPERVISOR'S ACTION: \_\_\_\_\_

[ ] Resolved [ ] Refer to Level III

Supervisor's Name: \_\_\_\_\_ Team: \_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
\*\*\*\*\*  
SHIFT LIEUTENANT REVIEW: [ ] Concur [ ] Reversed \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_  
\*\*\*\*\*  
SUPPORT SERVICE RESPONSE: Unit Assigned: \_\_\_\_\_ Date Assigned: \_\_\_\_/\_\_\_\_/\_\_\_\_  
Date Due: \_\_\_\_/\_\_\_\_/\_\_\_\_

Response by: \_\_\_\_\_ Title: \_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_  
\*\*\*\*\*  
FACILITY COMMANDER/DESIGNEE REVIEW: [ ] Concur [ ] Reversed \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_  
\*\*\*\*\*  
RESPONSE RETURNED TO INMATE: Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_ By: \_\_\_\_  
Distribution: White-Administration    Canary-Inmate (Final Disposition)    Pink-Inmate (Initial Receipt)

Main Jail ☒  
 Main Jail South ☐  
 North County Jail ☐

SANTA CLARA COUNTY DEPARTMENT OF CORRECTION  
**INMATE GRIEVANCE FORM**

Elmwood ☐  
 CCW ☐  
 WRC ☐

pg 8

INMATE'S NAME: <u>Richard Gutierrez</u>	BOOKING NUMBER: <u>0605877</u>	HOUSING UNIT: <u>10. A</u>
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DETAILS OF GRIEVANCE. PRINT! BE SPECIFIC!:

See pg 9 Continue

WHAT SOLUTION ARE YOU RECOMMENDING?: to me That all four c/o be

Your Signature: Richard Gutierrez Date: 3/17/07 Time: 4:00 PM  
 (Do NOT write below this line Use additional sheets if necessary)

Received from Inmate on:  
 Day: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_ Officer: \_\_\_\_\_ Team: \_\_\_\_\_

RESPONDING OFFICER'S STATEMENT (Please print):

☐ Resolved ☐ Refer to Level II

Officer's Name: \_\_\_\_\_ Team: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
 SUPERVISOR'S ACTION: \_\_\_\_\_

☐ Resolved ☐ Refer to Level III

Supervisor's Name: \_\_\_\_\_ Team: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
 SHIFT LIEUTENANT REVIEW: ☐ Concur ☐ Reversed

SIGNATURE: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_  
 SUPPORT SERVICE RESPONSE: Unit Assigned: \_\_\_\_\_ Date Assigned: \_\_\_\_/\_\_\_\_/\_\_\_\_  
 Date Due: \_\_\_\_/\_\_\_\_/\_\_\_\_

Response by: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_  
 FACILITY COMMANDER/DESIGNEE REVIEW: ☐ Concur ☐ Reversed

SIGNATURE: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_  
 RESPONSE RETURNED TO INMATE: Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_ By: \_\_\_\_\_  
 Distribution: White-Administration Canary-Inmate (Final Disposition) Pink-Inmate (Initial Receipt)

Main Jail [ ]  
Main Jail South [ ]  
North County Jail [ ]

SANTA CLARA COUNTY DEPARTMENT OF CORRECTION  
INMATE GRIEVANCE FORM

Elmwood [ ]  
CCW [ ]  
WRC [ ]

P99

INMATE'S NAME: <u>Richard Gutierrez</u>	BOOKING NUMBER: <u>06058776</u>	HOUSING UNIT: <u>6A</u>
--	------------------------------------	----------------------------

DETAILS OF GRIEVANCE. PRINT! BE SPECIFIC!:

See pg 10 Continued

WHAT SOLUTION ARE YOU RECOMMENDING?: repremedend And the inmate be

Your Signature: Richard Gutierrez Date: 3/17/07 Time: 4 PM  
(Do NOT write below this line Use additional sheets if necessary)

Received from Inmate on:  
Day: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_ Officer: \_\_\_\_\_ Team: \_\_\_\_\_

RESPONDING OFFICER'S STATEMENT (Please print):

[ ] Resolved [ ] Refer to Level II

Officer's Name: \_\_\_\_\_ Team: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
SUPERVISOR'S ACTION:

[ ] Resolved [ ] Refer to Level III

Supervisor's Name: \_\_\_\_\_ Team: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
SHIFT LIEUTENANT REVIEW: [ ] Concur [ ] Reversed

SIGNATURE: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_  
SUPPORT SERVICE RESPONSE: Unit Assigned: \_\_\_\_\_ Date Assigned: \_\_\_\_/\_\_\_\_/\_\_\_\_  
Date Due: \_\_\_\_/\_\_\_\_/\_\_\_\_

Response by: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_  
FACILITY COMMANDER/DESIGNEE REVIEW: [ ] Concur [ ] Reversed

SIGNATURE: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_  
RESPONSE RETURNED TO INMATE: Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_ By: \_\_\_\_\_  
Distribution: White-Administration Canary-Inmate (Final Disposition) Pink-Inmate (Initial Receipt)

Main Jail [ ]  
Main Jail South [ ]  
North County Jail [ ]

SANTA CLARA COUNTY DEPARTMENT OF CORRECTION  
**INMATE GRIEVANCE FORM**

Elmwood [ ]  
CCW [ ]  
WRC [ ]

Pg 10

INMATE'S NAME: <u>Richard Gutierrez</u>	BOOKING NUMBER: <u>058776</u>	HOUSING UNIT: <u>m5 6.A.</u>
--	----------------------------------	---------------------------------

DETAILS OF GRIEVANCE. PRINT! BE SPECIFIC!:

WHAT SOLUTION ARE YOU RECOMMENDING?: Financial Imburst for Pain/Suffering

Your Signature: Richard Gutierrez Date: 3/17/07 Time: 4 PM  
(Do NOT write below this line! Use additional sheets if necessary)

Received from Inmate on:

Day: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_ Officer: \_\_\_\_\_ Team: \_\_\_\_\_

RESPONDING OFFICER'S STATEMENT (Please print):

[ ] Resolved [ ] Refer to Level II

Officer's Name: \_\_\_\_\_ Team: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

SUPERVISOR'S ACTION:

[ ] Resolved [ ] Refer to Level III

Supervisor's Name: \_\_\_\_\_ Team: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

SHIFT LIEUTENANT REVIEW: [ ] Concur [ ] Reversed

SIGNATURE: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_

SUPPORT SERVICE RESPONSE: Unit Assigned: \_\_\_\_\_ Date Assigned: \_\_\_\_/\_\_\_\_/\_\_\_\_  
Date Due: \_\_\_\_/\_\_\_\_/\_\_\_\_

Response by: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_

FACILITY COMMANDER/DESIGNEE REVIEW: [ ] Concur [ ] Reversed

SIGNATURE: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_

RESPONSE RETURNED TO INMATE: Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_\_ By: \_\_\_\_\_  
Distribution: White-Administration Canary-Inmate (Final Disposition) Pink-Inmate (Initial Receipt)



JS 44 - CAND (Rev. 11/04)

**CIVIL COVER SHEET**

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO.)

I.(a) PLAINTIFFS Richard Gutierrez

## DEFENDANTS

CAPTIN SUPLEVDA  
C/O Borish, C/O JON Doe 1-10  
JON Does 1-15 Jane Does 1-15 Santa Clara

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Santa Clara  
(EXCEPT IN U.S. PLAINTIFF CASES)COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

ATTORNEYS (IF KNOWN)

## II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 U.S. Government Plaintiff  
☐ 3 Federal Question (U.S. Government Not a Party)  
☒ 2 U.S. Government Defendant  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- |   | PTF                                   | DEF                                   |   | PTF                        | DEF                        |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2            | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3            | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ Original Proceeding  
☐ Removed from State Court  
☐ Remanded from Appellate Court  
☐ Reinstated or Reopened  
☐ Transferred from Another district (specify)  
☐ Multidistrict Litigation  
☐ Appeal to District Judge from Magistrate Judgment

## V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury <input type="checkbox"/> Med Malpractice <input type="checkbox"/> 365 Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl.Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (US Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/CC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Amer w/ disab - Empl <input type="checkbox"/> 446 Amer w/ disab - Other <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motion to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

## VI. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Violation of The Eighth and Fourteenth  
Amendments Secured under the Constitution

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION DEMAND \$  CHECK YES only if demanded in complaint:  
 UNDER F.R.C.P. 23 JURY DEMAND: ☒ YES ☐ NO

VIII. RELATED CASE(S) IF ANY PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

## IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2)

(PLACE AND "X" IN ONE BOX ONLY)

☐ SAN FRANCISCO/OAKLAND☒ SAN JOSE

DATE

SIGNATURE OF ATTORNEY OF RECORD

Ryan Grainshaw  
PEN DWN 781  
SCC Doc M36A17  
885 N. SAN PEDRO ST  
SAN JOSE, CALIF  
95110-1718

RECEIVED

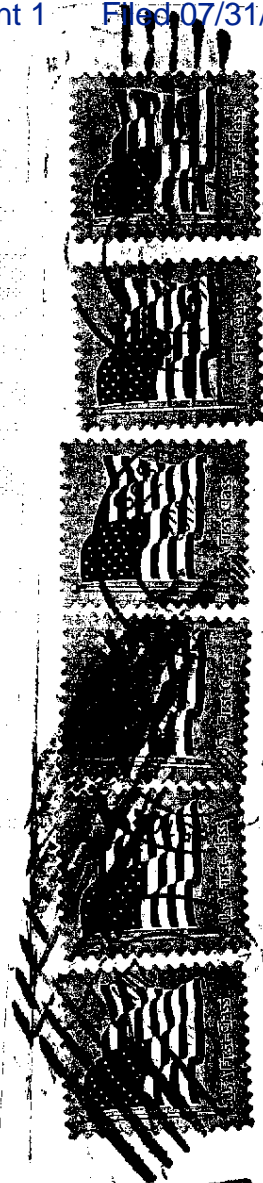
Motions

Legal Mail

SOPERNAS

RICHARD W. JENKINS  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JUL 30 2007



TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIF.,

450 GOLDEN GATE AVE.,  
BOX 360600,  
SAN FRANCISCO, CALIF 94102